

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 IN AND FOR THE COUNTY OF MERCED

3  
4 GENERAL ORDER RE: IMPLEMENTATION OF EMERGENCY RELIEF  
5 AUTHORIZED PURSUANT TO GOVERNMENT CODE SECTION 68115 BY  
6 CHAIR OF JUDICIAL COUNCIL

7 #2022-01  
8

9 This Court has previously issued Standing Order #2020-04 and thirty-three  
10 General Orders pursuant to Government Code section 68115 limiting the services  
11 provided by this court during the State of Emergency declared by the Governor in  
12 response to the COVID-19 pandemic.

13 Effective January 3, 2022, this court will authorize additional resumption of  
14 services for in-person appearances. Accordingly, this order authorizes the nature  
15 of the services being resumed, the rules in effect for court facilities during this  
16 period of additional resumption of services and clarifies the status of the previously  
17 issued orders.

18 Remote appearances are strongly encouraged and may be required in some  
19 proceedings. The court has established video and/or telephone conferencing in all  
20 courtrooms and will continue to limit physical access to all courthouse buildings.

21  
22 **Entrance to Courthouse Building:**

- 23 1. Only parties, their attorneys, and witnesses will be admitted to any  
24 courthouse. Spectators and friends of parties will not be admitted to any  
25 courthouse with exceptions for criminal jury trials and criminal  
26 preliminary examinations. Seating is limited and subject to judicial  
27 officer discretion. Public access to court proceedings is provided online  
28 and can be accessed via [www.mercedcourt.org](http://www.mercedcourt.org).

- 1 2. Every courthouse will designate Screeners to determine which  
2 individuals will be admitted to the court.
- 3 3. Individuals who advise the Screeners that they are ill or have been ill  
4 with flu-like symptoms or have suffered a fever, cough, or shortness of  
5 breath, will not be admitted into the courthouse. Individuals who are not  
6 permitted to enter must contact their attorney or the clerk's office to  
7 arrange for their matters to be continued.
- 8 4. Prior to admission into the courthouse, each person shall submit to a non-  
9 invasive temperature screening process and/or declaration. Any  
10 individual showing a temperature of 100.4 degrees or greater will not be  
11 admitted to the courthouse. Individuals who are not permitted to enter  
12 must contact their attorney or the clerk's office to arrange for their  
13 matters to be continued.
- 14 5. All persons entering the court facilities shall wear a face covering or face  
15 mask while in any of the public areas of any Merced Court facility and in  
16 the courtrooms, unless advised by the judicial officer that a mask may be  
17 removed while in the courtroom. Individuals entering the courthouse are  
18 strongly encouraged to bring their own masks.
- 19 6. Individuals scheduled to appear in a given courtroom will be admitted to  
20 the courthouse. Individuals permitted to enter will proceed through  
21 security and will be directed to take a seat marked with an "X" or as  
22 instructed by the deputy in the courtroom. Individuals admitted to the  
23 courthouse shall not congregate in hallways.
- 24 7. Individuals admitted to the courthouse shall observe social distancing,  
25 avoid contact with other individuals, and avoid standing, walking, or  
26 sitting within six feet of another individual whenever possible.
- 27 8. When an individual's hearing is completed, the individual will exit the  
28 courthouse promptly.

- 1           9. Screeners shall have the discretion to refuse to admit any person to the  
2           courthouse if, in their judgment, the person is ill or otherwise poses a  
3           potential danger. Individuals who are denied entrance must contact their  
4           attorney or the clerk’s office to arrange for their matters to be continued.  
5

6 **Entrance to Specific Courtrooms:**

7 **2260 “N” Street, Merced, CA Courthouse:**

8 **Courtrooms 1 - 7:**

- 9           1. Courtroom seating is limited to allow for social distancing. Courtroom  
10          Deputies shall designate seating by “X”s or other means.  
11

12 **627 West 21<sup>st</sup> Street, Merced, CA Courthouse:**

13 **Courtroom 8:**

- 14          1. Courtroom 8 will be combined with Courtroom 10, with hearings held in  
15          Courtroom 10.  
16

16 **Courtroom 9:**

- 17          1. Courtroom seating is limited to allow for social distancing. Courtroom  
18          Deputies shall designate seating by “X”s or other means.  
19

19 **Courtroom 10:**

- 20          1. Remote appearances are strongly encouraged and may be requested or  
21          required in some proceedings. Courtroom seating is limited for in-person  
22          appearances, to allow for social distancing. Courtroom Deputies shall  
23          designate seating by “X”s or other means.  
24          2. Courtroom 8 matters will continue to be heard in Courtroom 10.  
25  
26  
27  
28

1 **2840 West Sandy Mush Road, Merced, CA Courthouse:**

2 **Courtroom 11:**

- 3 1. Courtroom 11 will continue to provide remote hearings for all matters and  
4 may permit a limited number of individuals involved with the case to  
5 personally appear in the courtroom at the discretion of the hearing officer.  
6 Privacy requirements dictate that only individuals involved in a given case  
7 may be present when that case is proceeding.

8  
9 **1159 “G” Street, Los Banos, CA Courthouse:**

10 **Courtroom 12:**

- 11 1. Remote appearances are strongly encouraged and may be required in some  
12 proceedings. Courtroom Deputies shall designate seating by “X”s or other  
13 means. Courtroom seating is limited for in-person appearances, to allow for  
14 social distancing. In-person public access seating to observe criminal  
15 preliminary examinations is subject to judicial officer discretion. A limited  
16 number of individuals who appear at the courthouse may be permitted to use  
17 the courthouse terminals to appear at the hearings remotely.

18 **Courtroom 13:**

- 19 1. Courtroom 13 seating is limited for in-person appearances, to allow for  
20 social distancing. Courtroom Deputies shall designate seating by “X”s or  
21 other means.

22  
23 **STANDING ORDER #2020-04**

24 Policies outlined in Standing Order #2020-04 have concluded and are no longer  
25 applicable except for the following policies, which the court intends to continue:

- 26 • Family Court Services will continue with remote mediation services and will  
27 schedule telephonic and remote mediation opportunities for litigants.

- Self-Help Centers will continue with telephonic appointments and remote services. Members of the public can reach the Self-Help office by emailing [selfhelp@mercedcourt.org](mailto:selfhelp@mercedcourt.org).

### **GENERAL ORDERS**

The following General Orders are superseded by a current order, rescinded, or are no longer applicable: #2020-01, #2020-02, #2020-05, #2020-06, #2020-08, #2020-10, #2020-11, 2020-12, 2020-12 Amended, #2020-14 and #2020-10.

General Orders providing the authority to hold sessions anywhere in the county, including in correctional and juvenile detention facilities, extend the time period provided in section 1382 of the Penal Code, within which a trial must be held and that extend the time periods provided in sections 583.310 and 583.320 of the Code of Civil Procedure to bring an action to trial are not included in this summary.

The following General Orders remain in effect:

#### **GENERAL ORDER #2020-03**

General Order #2020-03 provided for the extension of time periods in criminal matters and has been superseded by General Order #2021-12, except with respect to extension of time periods for preliminary examinations. The provisions that remain in effect are provided as follows:

The Chief Justice, incorporating the same herein, does **HEREBY FIND AND ORDER:**

#### **A. Extensions of Time Periods**

1. That the time period provided in section 859b of the Penal Code for the holding of a preliminary examination and the defendant's right to release is extended from 10 court days to not more than 30 court days.

1 **GENERAL ORDER #2020-04**

2 **JUVENILE DELINQUENCY ORDER**

3 1. Except for minors arrested for offenses listed in Welfare and Institutions  
4 Code section 707(b), felony sex offenses, felony domestic violence offenses,  
5 offenses involving personal use or possession of a firearm, felony assault  
6 with a gang enhancement, or a minor with a placement order that has been  
7 issued by the Juvenile Delinquency Division, arrested minors shall be cited  
8 and released by Probation. Probation has the discretion to select a citation  
9 date that is not sooner than April 17, 2020.

10 2. Except for minors who are serving commitments for Welfare and  
11 Institutions Code section 707(b) offenses, felony sex offenses, felony  
12 domestic violence offenses, offenses involving personal use or possession of  
13 a firearm, or felony assault with a gang enhancement, all minors with a  
14 tentative release date within sixty days of April 6, 2020, shall be released  
15 forthwith to a parent or guardian on previously ordered Probation terms; the  
16 balance of the custodial commitment is commuted. As to these released  
17 youth, any commitment to the juvenile global positions system is vacated.  
18 The judges jointly make this order, with the following additional provision:  
19 If any such youth are subject to Placement Orders, Probation is to release  
20 such youth as soon as suitable placement can be arranged, or to a parent or  
21 guardian, if appropriate. Probation is directed to file ex parte on a placement  
22 review, with such hearings to take place within ten judicial days of the  
23 reopening of the court.

24  
25 **GENERAL ORDER #2020-07**

26 This General Order summarizes this court's findings concerning the quality  
27 and effectiveness of the remote hearings conducted since March 23, 2020. The  
28 Merced Superior Court conducted Juvenile, Criminal, and Family Law remote

1 hearings. The Presiding Judge conducted a number of remote hearings himself and  
2 consulted with each of the other Merced Superior Court judicial officers  
3 conducting remote hearings and this Court HEREBY FINDS AND ORDERS AS  
4 FOLLOWS:

- 5 1. The remote hearings provided by the Merced Superior Court since March  
6 23, 2020 are the fully functional equivalent of live in-court hearings.  
7 While they do not proceed as quickly as live in-court hearings, the sound  
8 quality and video picture quality is as good as or better than available to a  
9 person participating in a live in-court hearing. In all hearings conducted,  
10 the judicial officer has been able to understand the testimony and fully  
11 evaluate the demeanor of each speaker, unless the speaker appears by  
12 telephone.
- 13 2. Just as in a live hearing, there are times where a participant fails to speak  
14 into their microphone and must be prompted to repeat what they said;  
15 there are occasions where participants forget to unmute their connection  
16 or do not speak clearly and must be prompted to repeat their statements.  
17 While a connection has occasionally failed during a hearing, such failure  
18 usually comes to the immediate attention of the courtroom clerk  
19 controlling the video conference, and the hearing is paused until a new  
20 and satisfactory connection can be made.
- 21 3. When an interpreter is required, the hearing proceeds more slowly  
22 because the interpreter must proceed with sequential rather than  
23 simultaneous interpretation, but the quality of interpretation is as good or  
24 better than the use of simultaneous interpretation during a live in-court  
25 hearing.
- 26 4. When a participant and their attorney need to conduct a private  
27 conversation, the court has developed several processes for  
28 accommodating that need.

- 1 5. Remote hearings also preserve the right of the public to observe court  
2 proceedings as certain non-confidential remote hearings are being  
3 streamed by the Merced Superior Court to the public via a livestream.
- 4 6. The remote hearings have been so successful that there have been  
5 inquiries from justice partners, including criminal defense counsel and  
6 civil counsel, requesting that the option to provide remote hearings in lieu  
7 of in-court hearings continue after the state of emergency is over.
- 8 7. This court concludes that the remote hearings conducted by the Merced  
9 Superior Court since March 23, 2020 have fully accommodated the rights  
10 of all the participating parties and constitute the fully functional  
11 equivalent of live in-court hearings.
- 12 8. This court finds that the threat of contagion is such that live in-court  
13 criminal hearings would jeopardize the health of the Deputy District  
14 Attorney participating in the hearing, the District Attorney's Office, and  
15 its ability to function in other matters; would jeopardize the health of the  
16 Deputy Sheriffs or other law enforcement participating in the hearing, the  
17 Sheriff's office or other law enforcement agencies participating in the  
18 hearing, their staff, and their ability to function in other matters; would  
19 jeopardize the health of defense counsel and the ability of defense  
20 counsel's firm or the Public Defender's Office to function in other  
21 matters; would jeopardize the health of the defendant himself, and would  
22 jeopardize the health of the court staff and its ability to function in other  
23 matters. Similarly, live in-court civil hearings would jeopardize the  
24 health of all participants, including counsel, parties, and witnesses, in  
25 such civil hearings. This court incorporates by this reference, the April 8,  
26 2020 letter from Sheriff Vern Warnke discouraging the transportation of  
27 prisoners in lieu of remote hearings, and the April 22, 2020 letter from  
28

1 the Merced County Department of Public Health, discouraging the use of  
2 live hearings, copies of which are attached hereto as Exhibits A and B.

3 9. This court finds that remote hearings do not impinge on the rights of any  
4 party in any material way, while adequately protecting the health and  
5 safety of all participants. This court finds that increases in safety  
6 presented by remote hearings far outweighs any potential advantages in-  
7 person hearings might have over remote hearings while the State of  
8 Emergency remains in effect.

9 10. This order remains in effect and is consistent with the court's experience  
10 with remote hearings conducted after General Order #2020-07 Amended  
11 was issued. Accordingly, General Order #2020-07 Amended remains in  
12 effect, though the decision to conduct live versus remote hearings after  
13 May 31, 2020, rests with the discretion of the hearing officer.

14  
15  
16 **THIS ORDER IS EFFECTIVE IMMEDIATELY.**

17 **Dated: January 1, 2022**

18  
19 *Mark V. Bacciarini*

20  
21 \_\_\_\_\_  
22 Hon. Mark Bacciarini, Presiding Judge